



Report to the Planning and Zoning Commission

Prepared by the Maricopa County Planning and Development Department

Case: TA2018001 – Off-Site Advertising Signs (Billboards)

Meeting Date: July 25, 2019

Supervisor District: All

Applicant: Becker Boards Small, LLC / Joseph White

Requests: Text Amendment to amend Chapter 2, Definitions and Chapter 14, Articles 1403 and 1404 of the Maricopa County Zoning Ordinance (MCZO) relating to Off-Site Advertising Signs (Billboards). TA2018001 proposes additional usage, allowance for digital billboards currently prohibited.

Municipal Comments: Four letters of opposition received from City of Phoenix, City of Glendale, City of Surprise, and the Town of Gilbert

Support/Opposition: 155 letters of opposition/suggested changes to the proposed text, includes both citizen and industry comments, to date

Recommendation: **Indefinite Continuance**

Proposed Text Amendment:

1. This item is being processed through the County's Enhanced Regulatory Outreach Program (EROP). The proposed added language is underscored, and deleted language is struck-through. Chapter 14, Articles 1403 and 1404 have been re-written with all text underscored. Existing Language for Articles 1403 and 1404 have been struck-through:

Section 201 – DEFINITIONS

FREEWAY (REGARDING OFF-SITE ADVERTISING (BILLBOARDS)):

For the purpose of the location of Off-Site Advertising Signs (Billboards) only, Interstate 17 (I-17) south of Carefree Highway, I-10, Arizona State Route (SR) Loop 101, SR Loop 202, SR Loop 303, SR 24, and U.S. Highway 60 (U.S. 60 – Superstition Freeway), and their connections, and on and off ramps.

SCENIC CORRIDOR:

For the purpose of the location of Off-Site Advertising Signs (Billboards), scenic corridor shall refer to the Scenic Corridor Overlay Zoning Districts (as said forth in Chapter 10) and scenic corridor district policy guidelines (Carefree Highway, Castle Highway, McMickem Dam, Olive Avenue, El Rio, I-17 North of Carefree Highway).

SIGN (BILLBOARD), EMBELLISHMENT:

Letters, figures, characters, or representations in cutouts, irregular forms, or similar ornamentation attached to or superimposed upon a billboard to provide a three-dimensional effect.

SIGN, OFF-SITE ADVERTISING (BILLBOARDS):

A freestanding sign portraying information which directs attention to an idea, issue, point of view, candidate, entity, business, commodity, service, entertainment, product or attraction sold, offered, or existing elsewhere than upon the property where the sign is located. Billboards as used in this this Ordinance without a modifying word shall mean both static and digital.

SIGN, OFF-SITE ADVERTISING (BILLBOARDS) – DIGITAL:

A billboard, utilizes digital message technology capable of changing the message or copy on the sign electronically, such that, the alphabetic, pictographic, or symbolic informational content can be changed or altered electronically on a fixed display surface composed of electronically illuminated or electronically actuated or motivated elements. This includes billboards with displays that have been preprogrammed to display only certain types of information (i.e., time, date, temperature) and billboards whose informational content can be changed or altered by means of computer-driven electronic impulses.

SIGN, OFF-SITE ADVERTISING (BILLBOARDS) – Static:

A billboard with a fixed message that changes no more than once in a 24-hour period.

ARTICLE 1403.3. OFF-SITE ADVERTISING SIGNS (BILLBOARDS) [C-2 AND C-3 ZONING DISTRICTS ONLY]:

1403.3.1 Billboards shall be permitted uses in the C-2 and C-3 zoning districts subject to the following conditions:

A. Separation Distance:

1. Distance from other billboards:

- a. When either an existing or proposed billboard is located **three (3) miles or greater** from the boundary of any incorporated city or town, shall maintain a radial separation distance from any other billboard of **3,000 feet**. Measurement shall be from the vertical edge of the sign face closest to the sign face of the structure to which is being measured. Measurement shall not cross any freeway, except within scenic corridors.
- b. When either an existing or proposed billboard is located **fewer than three (3) miles** from the boundary of any incorporated city or town, shall maintain a radial separation distance from any other billboard of **1,000 feet**. Measurement shall be from the vertical edge of the sign face closest to the sign face of

the structure to which is being measured. Measurement shall not cross any freeway, except within scenic corridors.

2. Static billboard conversion to digital billboard:

- c. Any non-conforming existing freeway billboard that is converted to digital must maintain a distance not fewer than **500 feet** from other freeway digital billboards, and must include a decorative pole cover which includes identifying the nearest City to billboard within the design at the City's discretion.

B. Setback Requirements: There shall be a 0' setback from any property line, except as follows:

- 1. No billboard shall be erected within **100 feet** of any residential zoning district boundary or a residential use in a rural zoning district, whether or not separated by a public right-of-way.
- 2. No illuminated billboard shall be erected within **150 feet** of a residential zoning district boundary or a residential use in a rural zoning district (refer to Chapter 11, Section 1112).
- 3. No billboard shall be erected within 500 feet of any park, school or roadside rest area.

C. Billboards shall not be audible in any manner.

D. No billboard shall be erected in or within **six-hundred sixty (660) feet** of a Scenic Corridor Overlay Zoning District.

E. No digital billboard shall be erected on any property located within any Maricopa County Scenic Corridor.

F. Development Standards:

- 1. Billboards located greater than 300' from of an existing freeway
 - a. Shall be limited to thirty (30) feet in height inclusive of all embellishments, lighting, and attachments.
 - b. Shall be limited to three-hundred (300) square feet in sign face area. The maximum square footage may be exceeded by up to ten percent (10%) by use of embellishments.
- 2. Billboards located within 300' of an existing freeway:
 - a. Shall be limited to forty-eight (48) feet above adjacent grade or elevation of the main travel lanes of a freeway or subject property (whichever is greater but not to exceed

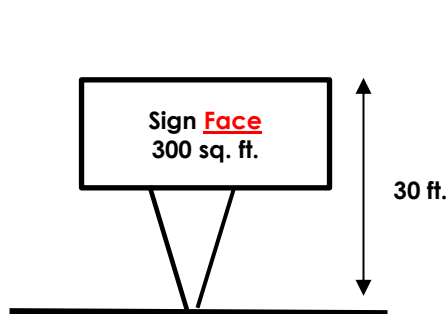
80'), inclusive of all embellishments, lighting, and attachments.

- b. Shall be limited to six hundred seventy-two (672) square feet in sign face area. The maximum square footage of sign area may be exceeded by up to twenty percent (20%) by use of embellishments.

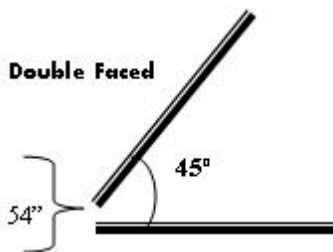
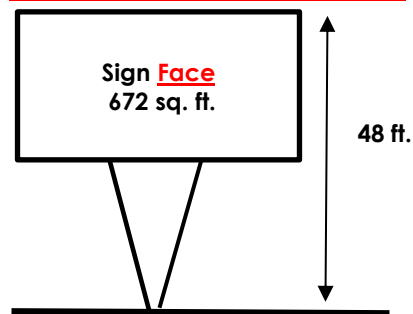
- G. A billboard may be double-faced or "V" shaped, provided the "V" shape is designed so that there is no greater than **fifty-four (54) inches** between faces at the apex and the angle between the faces of the sign is no greater than **forty-five (45) degrees**.

	<u>Sign Face (Square Feet)</u>	<u>Embellishments</u>
<u>Billboards</u>	<u>300</u>	<u>10%</u>
<u>Billboards within 300' of a freeway</u>	<u>672</u>	<u>20%</u>

Billboards not within 300' of a freeway



Billboards within 300' of a Freeway



- H. Any modifications to a billboard within the Military Airport and Ancillary Military Facility Overlay Zoning District shall require a new Use Compatibility and Consistency Determination (UCCD) pursuant to Section 1010 of this Ordinance.
- I. All lighting shall adhere to Article 1112.3.2 of the Maricopa County Zoning Ordinance.
- J. Digital billboards shall be permitted if:

1. Located **fewer than three (3) miles** from the boundary of any incorporated city or town.
2. Billboards **not within 300'** of a freeway and (i) **not within 450'** of a rural or residential zoning district boundary, and (ii) not more than **30'** in height, and (iii) not more than **300 sq. ft.** in face area.
3. Network time shall be made available on all digital sign faces to federal, state, and local public safety agencies for emergency messaging. Such messages shall override all copy for one hour, and shall then be displayed for no fewer than eight seconds in every minute as long as needed.
4. Such billboard adheres to the provisions of Article 1401.3 of this Chapter, except that from 11:00 p.m. until sunrise all billboards illumination shall be extinguished and all billboards shall be equipped with an automatic devise to assure compliance. These illumination requirements shall not be applicable to the display of any Amber Alert or other governmental emergencies, or for other emergent situations as determined by the Zoning Administrator. Further, in the event of an electronic malfunction the sign shall be shut off until repairs have been made to restore the electronic messaging system.
5. Minimal display time shall not change-message more than once every eight (8) seconds.

K. General provisions applicable to digital billboards:

1. All lawfully existing static billboards on [EFFECTIVE DATE] that become non-conforming due to any changes to this Ordinance made on [EFFECTIVE DATE] may be converted to digital billboards and all support columns may be relocated a maximum of 20' from the existing location; provided that the converted billboard meets all requirements of this Article.
2. Nothing contained in this Ordinance shall affect the rights of any property granted a deviation by legislative or quasi-judicial action of Maricopa County.
3. Any new digital billboard (including conversions of existing static billboards to digital) shall be permitted as a Conditional Use per Section 1303, and subject to the following:
 - a. All digital billboard conditional use permits shall be approved by the Planning Director, or their designee upon the finding that:
 - i. The digital billboard will likely not cause a significant downgrade of property values on properties within 500 feet from the billboard structure.

- ii. Dimmers on all digital billboards shall be set in the evening hours (from sunset to 11:00 p.m.) not to exceed 300 nits.
- iii. Upon a determination that an application is determined to be complete, the applicant will be notified that a determination on the request will be made by the Planning Director within thirty (30) calendar days.
- iv. Fifteen calendar days prior to the determination by the Planning Director, the County shall mail notice to all affected properties within 150 feet of the subject property. If the property is within a municipal plan, the County shall also mail notice to that municipality.
- v. Upon determination by the Planning Director, an appeal may be filed within fifteen (15) calendar days to the Board of Adjustment challenging the interpretation by the Planning Director.

Article 1404.3 OFF-SITE ADVERTISING SIGNS (BILLBOARDS) [IND-2 AND IND-3 ZONING DISTRICTS ONLY]

1404.3.1 Off-site advertising signs (billboards) shall be a permitted use in the IND-2 and IND-3 zoning districts subject to all requirements set forth in Article 1403.3.1 of this Ordinance.

~~ARTICLE 1403.3. OFF-SITE SIGNS, BILLBOARDS [C-2 AND C-3 ZONING DISTRICTS ONLY]:~~

~~1403.3.1 Off-site signs shall be permitted uses in the C-2 and C-3 zoning districts provided each such sign shall:~~

- ~~1. Maintain a distance separation from any other off-site sign of **3,000 feet** of any offsite sign on the same street when either existing or proposed sign is located **three (3) miles or greater** from the boundary of any incorporated city or town.~~
- ~~2. Maintain a distance separation from any other off-site sign of **1,000 feet** of any offsite sign on the same street when either existing or proposed signs is located **fewer than three (3) miles** from the boundary of any incorporated city or town.~~
- ~~3. Such sign may be illuminated but no flashing, intermittent or moving illumination shall be employed. Any lighting used shall be in accordance with the adopted outdoor light control provisions (see Chapter 11, Section 1112, herein). Any off premise sign within **150 feet** of a rural or residential zone boundary shall be non-illuminated.~~
- ~~4. Such sign shall not be located within **100 feet** of any rural or residential zoning district boundary, whether or not separated by a public right-of-way.~~

5. ~~Such sign shall not be located within **500 feet** of any park, school or roadside rest area.~~

6. ~~Such sign shall not be audible in any manner.~~

7. ~~Special Conditions:~~

a. ~~On State Route 74 between U. S. 60-89 and Lake Pleasant Road, no off-site signs shall be permitted within **six-hundred sixty (660) feet** of said highway right-of-way.~~

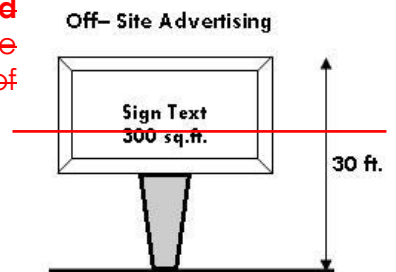
b. ~~On U. S. Highway 60-89 from Estrella Freeway to Wickenburg, no off-site signs shall be permitted within **six-hundred sixty (660) feet** of said highway right-of-way.~~

1403.3.2. ~~Off-site signs in C-2 and C-3 zoning district are subject to the following development standards:~~

1. ~~Such sign shall not exceed **three-hundred (300) square feet** in area. A sign may utilize embellishments up to of **ten percent (10%)** of the sign area.~~

2. ~~Such sign shall not exceed **thirty (30) feet** in height.~~

3. ~~Such sign may be double-faced or "V" shaped, provided the "V" shape is designed so that it is no greater than **fifty-four (54) inches** between faces at the apex and the angle between the faces of the sign is no greater than **forty-five (45) degrees**.~~



4. ~~Shall be freestanding.~~

5. ~~Shall maintain the same property line setbacks required by the underlying zoning district.~~

~~ARTICLE 1404.3. OFF-SITE SIGNS, BILLBOARDS [IND-2 AND IND-3 ZONING DISTRICTS ONLY]:~~

1404.3.1. ~~Off-site signs shall be permitted uses in the IND-2 and IND-3 zoning districts and provided each such sign shall:~~

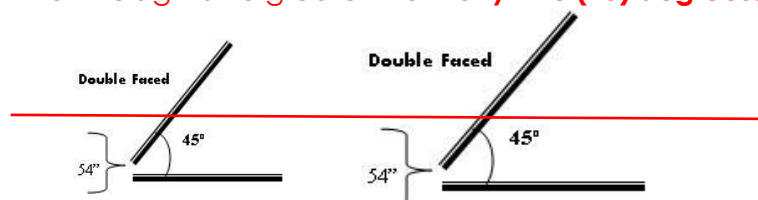
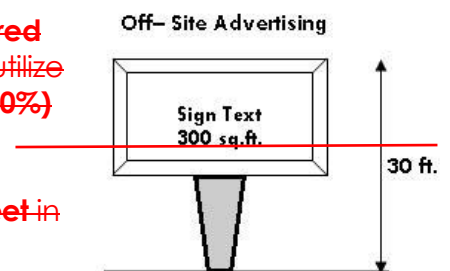
1. ~~Maintain a distance separation from any other off-site sign of **3,000 feet** of any offsite sign on the same street when either existing or proposed sign is located **three (3) miles or greater** from the boundary of any incorporated city or town.~~

2. ~~Maintain a distance separation from any other off-site sign of **1,000 feet** of any offsite sign on the same street when either existing or proposed signs is located **fewer than three (3) miles** from the boundary of any incorporated city or town.~~
3. ~~Such sign may be illuminated but no flashing, intermittent or moving illumination shall be employed. Any lighting used shall be in accordance with the adopted outdoor light control provisions (see Chapter 11, Section 1112. herein). Any off premise sign within **150 feet** of a rural or residential zone boundary shall be non-illuminated.~~
4. ~~Such sign shall not be located within **100 feet** of any rural or residential zoning district boundary, whether or not separated by a public right-of-way.~~
5. ~~Such sign shall not be located within **500 feet** of any park, school or roadside rest area.~~
6. ~~Such sign shall not be audible in any manner.~~
7. ~~Special Conditions:~~

- a. ~~On State Route 74 between U. S. 60-89 and Lake Pleasant Road, no off-site signs shall be permitted within **six-hundred sixty (660) feet** of said highway right-of-way.~~
- b. ~~On U. S. Highway 60-89 from Estrella Freeway to Wickenburg, no off-site signs shall be permitted within **six-hundred sixty (660) feet** of said highway right-of-way.~~

~~1404.3.2. Off-site signs in IND-2 and IND-3 zoning district are subject to the following development standards:~~

1. ~~Such sign shall not exceed **three-hundred (300) square feet** in area. A sign may utilize embellishments up to of **ten percent (10%)** of the sign area.~~
2. ~~Such sign shall not exceed **thirty (30) feet** in height.~~
3. ~~Such sign may be double faced or "V" shaped, provided the "V" shape is designed so that it is no greater than fifty four (54) **inches** between faces at the apex and the angle between the faces of the sign is no greater than **forty-five (45) degrees**.~~



~~4. Such sign shall be freestanding.~~

~~5. Shall maintain the same property line setbacks as required by the underlying zoning district.~~

Public Participation:

2. As part of the EROP process a stakeholder workshop was held on June 29, 2018. Based on the discussion on proposed changes, the applicant revised the text amendment language. A second stakeholder workshop was held on November 1, 2018 to discuss the revisions of the proposed text amendment. The text amendment was first discussed at the February 28, 2019 ZIPPOR. Comments discussed at the meeting mirrored the comments that staff received prior to the meeting, including:

- Need for a hearing process regarding digital billboards;
- Protection of UPDs and variances approved by the Board of Supervisors and Board of Adjustment;
- Concerns with billboards and digital billboards on Carefree Highway and other scenic corridors;
- Concerns with increase in lighting and the need to protect the dark sky for astrological purposes; and
- In addition industry stakeholders have concerns with applicant driven text amendments as opposed to staff driven text amendments.

The Commission provided direction to the applicant to work with the industry and the public to try and gain additional support and consensus on proposed modifications. Since the February 28, 2019 ZIPPOR meeting the applicant has met with industry and community stakeholders and has revised the text as shown above. A third stakeholder workshop was held on May 3, 2019 to discuss the proposed changes with stakeholders prior to the May 30, 2019 ZIPPOR.

Comments discussed at the May 30, 2019 ZIPPOR still mirrored the comments that staff has received throughout the process, however two industry stakeholders spoke in favor of the text amendment due to the changes made since the February 28, 2019 ZIPPOR.

3. Staff has received 155 letters of opposition and/or suggested edits to the proposed text amendment language (including citizen and industry stakeholders) to date; including 14 letters since the last ZIPPOR meeting. Because this is an applicant request it is their decision whether or not to consider the suggested changes. However, based on communications with the applicant, staff believes the applicant has reviewed all suggestions by stakeholders and has attempted to consider as many suggestions as possible. Staff has also discussed comments with the applicant.
4. The majority of the citizen comments received to date are regarding billboards along the Carefree Hwy, opposition to billboards in general, opposition to digital billboards, and concerns of dark sky preservation.

The majority of Industry comments to date address some the following:

- Linear versus radius separation;

- Legal non-conforming status with regards to approved Commercial Unit Plan of Development (CUPD), Industrial Unit Plan of Development (IUPD), and Variances that altered development standards for a billboard;
 - Allowance for maintenance and repairs;
 - Increase in separation of digital billboards versus illuminated static billboards;
 - Removal of a public benefit for removing non-conforming billboards as a condition of approval for digital, and;
 - No requirement for public hearing process for billboards.
5. Staff has received letters of opposition from the City of Phoenix, City of Glendale, City of Surprise, and the Town of Gilbert (Attached). Phoenix has concerns of a billboard with a maximum height of 80' and suggested a change to 70'. The City of Phoenix allows a maximum height of 70'. The City of Glendale has concerns there is no public hearing process. The City of Surprise requested additional setbacks from rural and residential zoning districts; maintaining a 3,000' separation regardless if site is within 3 miles of an incorporated city or town; and concerns with pole covers advertising nearest cities or towns. The Town of Gilbert addresses multiple objections due to billboards being prohibited within the Town of Gilbert and concerns with various county island within Gilbert's Planning Area.

Staff Analysis:

6. Major changes the proposed text amendment would allow for includes:
- A radius separation instead of the current linear separation based on street orientation. This is intended to remove ambiguity and interpretational drift with regard to determination of street orientation.
 - Change in setback requirements of the underlying zoning district to 0' (restrictions would still be applicable if adjacent to residential zoning districts, residential use in a rural zoning district, or park, school, or roadside rest area).
 - Addition of digital billboards within Maricopa County's jurisdiction. The current MCZO does not allow for digital billboards.
 - Definition of Scenic Corridor to also include area plan policy guidelines that are currently not regulatory (i.e. Carefree Hwy), and prohibiting digital billboards within scenic corridors.
 - The applicant has also added language under 1403.3.1.H regarding the Military Airport and Ancillary Military Facility Overlay Zoning District.
 - The applicant has proposed a Conditional Use Permit (CUP) process for digital billboards to be determined by the Planning Director or her designee with notification of property owners within 150 feet. Appeals would be heard by the Board of Adjustment.

7. Below are staff's analysis of portions of the text amendment and comments received:

Legal non-conforming with regards to UPDs approved by the BOS, Variances, and allowance for maintenance and repairs:

Per Department Directive DD-15-10: "The Department has historically viewed only the deviated standards as part of the UPD approval by the Board of Supervisors (BOS). This means that unless a development standard was specifically varied with BOS approval of

the UPD it is considered to have been amended with any subsequent zoning ordinance text amendment related to that development standard." Meaning, any CUPD or IUPD standards that have been deviated would still be valid as they were approved by the BOS. Any standard that was not deviated, the new standards shall apply.

To clarify this the applicant added language under Article 1403.3.1.K.2.

Increase in separation of electronic billboards versus illuminated static billboards. The proposed text amendment calls for a 1,000' distance between all billboards regardless of whether the signs are static or digital, except when located near a freeway the applicant has proposed a 500' separation.

Removal of a public benefit for removing billboards as a condition of approval for digital billboards. In one iteration of the draft text amendment staff suggested a removal of non-conforming billboards as a condition of approval for a digital billboard. The City of Phoenix has a similar program. However, the applicant feels this is not appropriate for a county the size of Maricopa County. The applicant contends that there would be no community benefit for removing a billboard along the Superstition Freeway in Mesa as condition to approve a digital billboard in the West Valley along I-10.

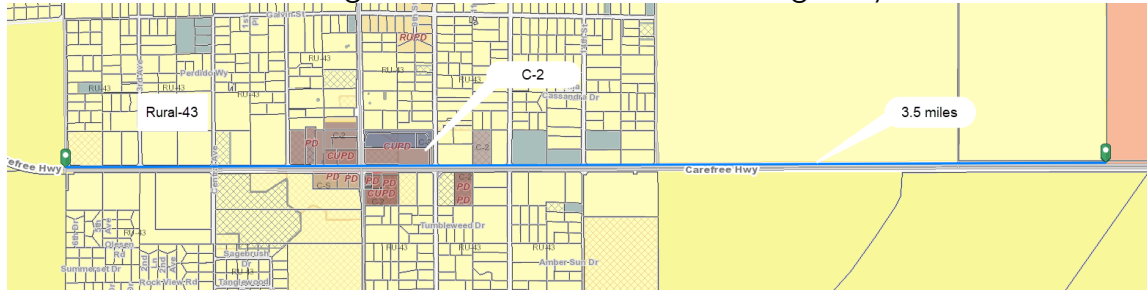
Comments received regarding the need for the dark sky protection and concerns for increase light pollution. There are state standards for lighting and digital billboards would be subject to these standards. Digital billboards would also be subject to MCZO lighting standards.

Many industry comments expressed concerns that the proposed text amendment changes would give the applicant an unfair advantage in the county with regards to converting billboards to digital. Staff does not track applications by applicant and does not have the ability to assess this claim. Arguably, the proposed changes would be applicable to the entire industry and would benefit all industry stakeholders while protecting rural/residential zoning districts and scenic corridors that have been addressed by citizen comments. A few members of the industry raised concerns that the proposed standards would set off a race to who can be first to permit a digital billboard; however this is presently the case for all billboards with regard to separation requirements.

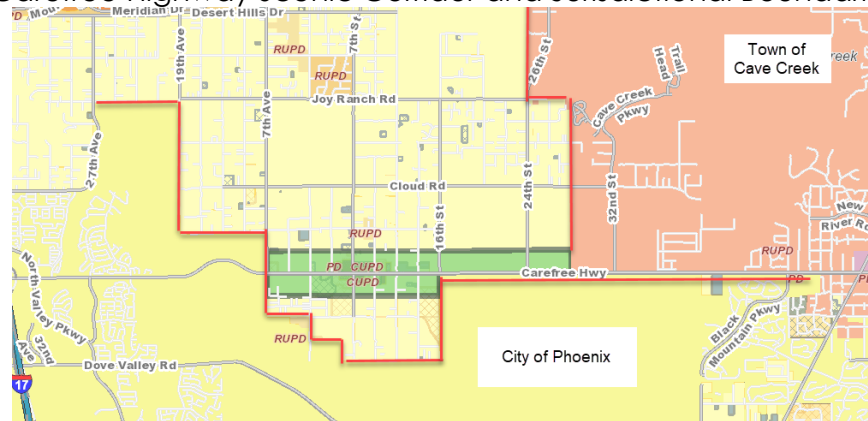
8. Carefree Highway within the unincorporated area of Maricopa County is designated as a scenic corridor, guided by the Carefree Highway Scenic Corridor Study which includes guidelines for land uses, design, setbacks, height, and lighting, etc. However, these are not regulatory requirements, only guidelines. Staff refers to this document while reviewing cases in this area, but there are no regulatory requirements that must be met if zoning entitlement is existing. In addition, as shown below the next page there is approximately 3.5 miles within the County's jurisdiction, with the majority of the parcels currently zoned Rural-43, which does not permit billboards. Many of the public comments were either opposed to digital billboards in this area and/or opposed to billboards in general in this area. Others were opposed to billboards in general elsewhere in the county. The BOS mandate for moratorium on increased regulatory burden, would conflict with any prohibition of billboards within any region of the County as it would be considered an increase in regulatory burden. In addition, removal of a currently allowed use without property owner authorization would also be subject to proposition 207 lawsuits.

The alternative as shown in the text change is to define scenic corridors to include Carefree Highway (as well as all scenic corridors not part of the overlay districts) and to keep the current standards for these areas but to not allow digital billboards within scenic corridors. This is not an increased regulatory burden as digital billboards are not a permitted use anywhere in Maricopa County at present.

Zoning Districts within the Carefree Highway



Carefree Highway Scenic Corridor and Jurisdictional Boundaries



9. Staff finds merit in several of the changes that are proposed in the text amendment including increasing the size of static billboards, implementing a radius separation standard, and prohibiting digital billboards in Scenic Corridors.
10. Staff, however, has significant concerns regarding several aspects of the proposed text amendment:
 - The allowance for conversion of legal non-conforming billboards goes against widely-accepted planning best practice to require that legal non-conforming uses are amortized over time.
 - The Conditional Use Permit (CUP) is not appealable to the Board of Adjustment. County Boards of Adjustment have a limited statutory authority compared to those for cities.
 - Digital/changing text may be a public safety concern for arterial roadway traffic.

Recommendations:

11. For the reasons outlined in this report and due to the ongoing opposition by municipalities, industry stakeholders, and community stakeholders staff recommends an **indefinite continuance** of TA2018001 to allow the applicant additional time to address stakeholder concerns and to develop a robust public input process for conversion to digital.

Prepared by: Jaclyn Sarnowski, Planner
Reviewed by: Matthew Holm, AICP, Planning Supervisor and Darren V. Gerard, AICP, Planning Manager

Attachments: City of Phoenix Comment (2 pages)
City of Surprise (2 pages)
City of Gilbert (2 pages)
City of Glendale (1 page)
5/30/2019 ZIPPOR Handout (8 pages)
5/30/2019 ZIPPOR Handout from Applicant (219 pages)
5/30/2019 ZIPPOR Packet (268 pages)